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C O N F I D E N T I A L SECTION 01 OF 02 HARARE 000721

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TAGS: PGOV KDEM PHUM PREL ZI
SUBJECT: ZIM PARLIAMENTARY LEADERS DISCUSS CONSTITUTIONAL
AND POLITICAL CHALLENGES

REF: A. HARARE 720
B. HARARE 707

Classified By: CDA Donald K. Petterson for reasons 1.4 (b) and (d).

SUMMARY

11. (C) On September 3, a panel of parliamentary leaders updated a visiting Congressional delegation on Zimbabwe's process to draft a new constitution and key issues affecting Parliament. Discussion centered around the need to unite stakeholders to craft a constitution that would gain the support of the public by enshrining principles such as the separation of powers. Another topic of concern was the selective and politically motivated application of the rule of law against parliamentarians. END SUMMARY.

12. (C) The Codel, which also met with President Robert Mugabe (Ref B) and Prime Minister Morgan Tsvangirai (Ref A), was led by Representative Greg Meeks (D-NY), and included Representatives Marcia Fudge (D-OH), Sheila Jackson-Lee (D-TX), Jack Kingston (R-GA), and Melvin Watt (D-NC). The Charge was also present at the meeting at the Parliament building in Harare.

Problems Facing the Constitutional Process

13. (C) The discussion was mediated by the Speaker of the House of Assembly, Lovemore Moyo (MDC-T), and began with an update of the constitutional drafting process by the three co-chairs of the Parliamentary Select Committee on the Constitution, Douglas Mwonzora (MDC-T), Paul Mangwana (ZANU-PF) and David Coltart (MDC-M). Mwonzora pointed to a lack of funding as the greatest impediment to a new

constitution. Aside from the USD 2 million UNDP grant which had largely funded the All Stakeholder's Conference in July, he said the rest of the process was unbudgeted and would require an additional USD 9 million from either government or donors. He explained the Committee had now entered a consultative phase whereby the 17 thematic sub-committees -- dealing with subjects ranging from the role of women to labor to separation of powers -- would elicit feedback from Zimbabweans across the country. However, (unspecified) delays had put the process one month behind schedule. On funding, Mangwana made the case that the government should be the principal funder of the process to ensure the result was driven by Zimbabweans and not external parties.

¶4. (C) Coltart agreed that funding was an issue, but candidly said that a lack of dialogue between the political parties and opposition to the process from elements of civil society, who think they should have a larger role, were other obstacles. He reminded the Codel of the 2000 referendum that attempted to significantly alter the Lancaster House Constitution and how the opposition had united in rejection of it. He cited that case as an example of the necessity of drawing in civil society groups)- such as the National Constitutional Assembly (NCA), elements of the Zimbabwe Congress of Trade Unions (ZCTU) and the Zimbabwe National Students Union (ZINASU) - that currently oppose the parliamentary-led process.

Biased Rule of Law Remains

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¶5. (C) Both Coltart and Mangwana responded to a question on the selective application of the rule of law against members of the MDC-T. Coltart made a case for his objectivity on the issue, as none of the MPs of MDC-M had been persecuted. He said without looking at the merits of the individual cases, the one-sided nature of the arrests was having a polarizing effect on Parliament. He worried that there was little Parliament could do to protect itself other than debate a motion on the matter and push for an investigation into the conduct of the Attorney General's office.

¶6. (C) Mangwana defended the arrests and maintained that Zimbabwe had a functioning judiciary, while conceding that the appointment of judges and their autonomy ought to be revisited. He argued that there was a common perception that the MDC-T MPs had been arrested for "just doing their jobs." This was inaccurate as they had in fact been charged with serious offenses including rape and fraud. "Shouldn't the rule of law be applied in these cases?" he asked. Coltart countered that there was a history of selective application of the law in Zimbabwe, and the fact that 100 percent of the arrested were MDC-T MPs highlighted the "fragility of the government." Coltart also cited the lack of arrests in the recent cases of suspected arson against two white commercial farmers who had resisted leaving their farms as further evidence of the partisan application of the law.

The Need for Separation of Powers

¶7. (C) Congresswoman Jackson-Lee made the case for the necessity of a separation of powers with a strong legislative branch to counter the executive branch, and invited the panel to discuss the issue. Coltart and Mwonzora agreed while Mangwana was silent. Coltart was well informed on the history of the U.S. constitution and agreed that separation of powers was pivotal. He said that President Mugabe had extensive de facto appointment powers and that this had led to the degradation of the judiciary. Mwonzora warned that even a good constitution was no guarantee of good governance.

COMMENT

¶8. (C) The presence of all three parties on the panel led to a respectful and at times cautious discussion of some thorny issues, such as the causes of constitutional delays and selective prosecutions. For instance, the point was never made that ZANU-PF was holding up the constitutional process by not submitting its sub-committee representatives. More positively, the ability of MPs from all three parties to engage in productive discourse was an encouraging sign and supports our belief that Parliament can be a forum for political cooperation. END COMMENT.

¶9. (SBU) Codel Meeks did not have an opportunity to clear Q9. (SBU) Codel Meeks did not have an opportunity to clear this message before departing Harare.

PETTERSON